

REMARKS

It is believed that all the above new claims are fully disclosed in the specification, supported by the written description and the drawings.

The applicant respectfully submits that the above new claims 6-11 patently distinguish over the cited references and, in particular, are not anticipated by Kang et al. (US Patent No. 5,755,281).

While Kang et al. is clearly silent about the dimensions of its heat transfer fin, the Examiner however appears to have relied on dimension measures taken on the drawings of the reference document to support the rejection over the prior art.

The Applicant submits that this rejection is improper because nothing in the disclosure of Kang et al. indicates a scale of representation that is necessary to support any proper measures from the drawings. It is therefore believed that the Examiner has improperly relied upon his personal assertion to allege the actual dimensions of the different elements in the reference drawings. As stated in Hockerson-Halberstadt, Inc. v. Avia Group Int'l, Inc, 55 USPQ 2d 1487, 1491 (Fed, Cir 2000), "*it is well established that patent drawings do not define the precise proportions of the elements and may not be relied on to show particular sizes if the specification is completely silent on the issue*". In re Wright, 569 F.2d 1124, 1127, 193 USPQ 332(CCPA 1977), "*absent any written description in the specification of quantitative values, arguments based on measurement of a drawing are of little value*".

It is further noted that the Examiner refers to the MPEP section 2125 to justify the measures made on the drawings. However, the Applicant remarks that in the same MPEP section 2125, it is clearly stated that "*proportions of features in a drawing are not evidence of actual proportions when drawings are not to scale*". Clearly, the standard upon which the Examiner has based his construction of the reference disclosure is fully improper.

For at least the above reasons, it is submitted that the rejection is improper and should be withdrawn.

CONCLUSION

For at least the foregoing reasons, it is believed that all the pending claims 6-11 of the invention patentably define over the prior art and are in proper condition for allowance. If the Examiner believes that a telephone conference would expedite the examination of the above-identified patent application, the Examiner is invited to call the undersigned.

Respectfully submitted,
J.C. Patents

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In The Claims:

Claims 1-4 have been canceled without prejudice and disclaimer.

Claims 6-11 have been newly added.